



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,888	05/30/2006	Francesco D'Oria	07040.0243	3653
22852	7590	07/23/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER KNABLE, GEOFFREY L	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			07/23/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/560,888

## Applicant(s)

D'ORIA ET AL.

## Examiner

Geoffrey L. Knable

## Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 17-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa (US 2003/0025238) taken in view of at least one of [Harris (US 2005/0017387), Cartwright et al. (US 3,782,428), Birdsall (US 1,827,416) and Blieberger (US 3,854,629)].

These references are applied for substantially the same reasons as set forth in the last office action. With respect to the amendment to claim 17 to newly define what the pressure drops to after exerting the counter-pressure, as noted in the last office action with respect to analogous claim 26, the particular pressure selected during the controlled stoppage of the extrusion would have been readily and routinely optimized by the ordinary artisan through routine optimization for only the expected and predictable results. In other words, the ordinary artisan, in view of the secondary references, would have understood that after feed stoppage, the pressure in the nozzle should be reduced sufficiently so as to avoid the material continuing to exit or leak from the nozzle. It therefore would have been obvious immediately after a controlled feed stoppage to exert a counter-pressure to a value at which the discharge of the extruded material is stopped. The pressure reduction required to effect this stoppage would have been a result effective variable determined through only routine optimization for only the expected results. Applicant has not clearly asserted or shown that the very broad range of claimed values represents anything other than what the ordinary artisan would have been expected to arrive at when desiring to stop material from exiting the nozzle after a

controlled stoppage of the extruder. *Note that applicant's invention is also apparently designed to prevent this material "leakage" from the die (page 14, lines 16-23).* As noted in MPEP 2144.05 II (A) with respect to an analogous situation, "[g]enerally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)."

With respect to new claim 33 defining the feeding pressures in the delivery member, Ogawa extrudes a rubber strip for spiral winding thereof using an extruder/gear pump but does not characterize the feed pressures thereof. Values within the broadly claimed range are however taken to represent well known, conventional and therefore obvious feed pressures used to form narrow rubber strips by extrusion in this art, the particular pressure chosen being well within the selection skill of the ordinary artisan through only routine optimization for only the expected and predictable results.

As to new claim 34, the references are applied for the same reasons as set forth in the last office action, claim 34 differing only by the requirement in the last three lines thereof. These lines however are read to simply require that feeding is not restarted until after a new tire is positioned for winding. Such would have been obvious to the ordinary artisan as feeding obviously should not be restarted before a subsequent tire is

positioned and ready to receive the strip. The claims dependent on claim 34 are rejected for the same reasons already of record with respect to analogous claims 18-32.

3. Applicant's arguments filed 4/2/2009 have been fully considered but they are not persuasive.

With respect to the applied secondary references, it is argued that "the pressure decrease or counter-pressure described in the secondary references need only be sufficient to halt undesirable material discharge after the feeding process has been stopped" and "[p]resumably, the reversal of the gear pump in Harris is only sufficient to prevent "drool" and would not drop the residual pressure inside the extruder to a level that would ensure optimal reproducibility of the extruded product in preparation for a subsequent feeding process. Cartwright, Birdsall, and Blieberger share a similar deficiency." These arguments have been carefully considered but are unpersuasive. These arguments seem to presuppose that if the ordinary artisan desired to prevent leakage or "drool" of the rubber in a process such as in Ogawa, that the pressure levels required to stop leakage or "drool" of rubber would be higher than the very broad range of pressure now claimed. It should be stressed however that *applicant's invention is also apparently designed to prevent this material "leakage" from the die (page 14, lines 16-23)* and it has not been unambiguously argued or established that the very broadly claimed pressure range defines an unobvious range for the artisan desiring to prevent leakage. In other words, it is not been clearly asserted or shown that a pressure to ensure "optimal reproducibility" is not also a pressure that is required to prevent

leakage, i.e. that the other reproducibility advantages are not simply additional advantages following a pressure selection designed to prevent material leakage.

New claim 34 has been treated within the statement of rejection. Correlating the restarting of the feeding with the time that the next tire is ready to be wound is not unobvious - this claim requires nothing more than this.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/  
Primary Examiner, Art Unit 1791

G. Knable  
July 19, 2009